

Original

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)
)
 Amendment of Section 73.202(b),) MM Docket No. 04-249
 Table of Allotments) RM-10999
 FM Broadcast Stations)
 (Yazoo City, Mississippi and)
 Benton, Mississippi))

To: Chief, Allocations Branch
 Policy and Rules Division
 Media Bureau

RECEIVED

JUL 5 2 2004

Federal Communications Commission
 Office of the Secretary

COMMENTS ON PROPOSED RULE MAKING

These comments are filed in support of the Notice of Proposed Rule Making, MB Docket No. 04-249, RM-10999, by SSR Communications Incorporated ("SSR"), licensee of station WYAB, to: (1) remove FM Channel 226A at Yazoo City, Mississippi, (2) add FM Channel 226A Benton, Mississippi as that community's *first local broadcast service*, and (3) modify the license of WYAB accordingly.

BACKGROUND

In April of 2003, SSR filed a petition for rulemaking for station WYAB to modify its license by deleting the FM allotment on Channel 226A at Yazoo City, Mississippi and adding FM Channel 226A to Benton, Mississippi as that community's *first local broadcast service*. In that petition, SSR chose to use its current tower site coordinates as the reference coordinates for the new allotment at Benton. At the reference site, a pre-existing shortspacing to station KQID-FM on FM Channel 226C at Alexandria, Louisiana of approximately two kilometers was in effect. SSR had believed that the shortspacing of

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KQID-FM would be permissible, as it was pre-existing and the license had no "special" FM rules attached to it that would allow a shortspacing arrangement, such as antenna directionality, or §73.215 processing.

SSR's petition for rulemaking was returned as unacceptable in December of 2003, due to the Commission's insistence that the current location was filed for under §73.215 rules. SSR respectfully believes that no such restrictions had existed on the FM license of WYAB, and that the shortspacing was simply grandfathered into the Commission's FM Database. SSR did, however, file for the changes again in December of 2003, this time with a "fully spaced" reference site.

In July of 2004, the Commission issued a Notice of Proposed Rulemaking on the allotment to gather comments on whether the changes would be in the public interest.

BENTON'S COMMUNITY STATUS

In the Notice of Proposed Rulemaking, the Commission sought comment on the community status of Benton. SSR firmly asserts that Benton *is a bona-fide* community for allotment purposes. Benton is not incorporated, but it should not be denied FM service because of this hindrance. Benton is a community in every facet, and petitioner has attached numerous exhibits to support this position.

SSR is concerned that denying Benton FM service due to its unincorporated status would set a dangerous precedent, as it is much more of a commercial, spiritual, and transportation nexus than many other small communities currently in the FM Table of Allotments. For example, SSR points to the FM Allotment at Pine Level, Alabama (MB Docket No. 00-211, RM-9993). In this case, the petitioner merely had to provide three photographs and a letter from the Board of Registrars to solidify the community status of

the unincorporated, non-Census Designated Place community known as Pine Level, Alabama. SSR has certainly exceeded this standard in its Comments. Benton is as deserving of FM service, if not more so, than the aforementioned community of Pine Level.

PUBLIC INTEREST WILL BE SERVED BY THESE CHANGES

The Commission also wants to know if the changes are in the best interest of the public. The proposed change in city of license follows the Commission's long-standing stance for sifting through allotment requests. The FM Allotment priorities give priority to (1) A community receiving first full-time aural service, (2) Second full-time aural service, co-equal in weight to priority (3) First local service, and then (4) Other public interest matters. This petition satisfies priority (3), or first local service to the community of Benton. The Commission contends that a net loss of 440 persons would be created by the adoption of this petition. SSR respectfully believes that this point would fall under priority (4) other public interest matters and carries less weight than Benton receiving first local service. SSR has, however, attached several exhibits to this petition demonstrating that the 440 persons losing service are already very well served by other broadcast services.

CONTINUING EXPRESSION OF INTEREST

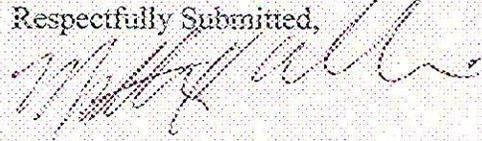
SSR reiterates its interest in this matter and states that it will file any necessary applications to change its city of license from Yazoo City to Benton should the Commission grant its petition.

SSR respectfully requests that the Commission adopt the proposed FM Channel 226A at Benton, Mississippi.

Date: July 20, 2004

SSR Communications, Inc.
5270 West Jones Bridge Road
Norcross, GA 30092-1628
(601) 201-2789

Respectfully Submitted,



Matthew K. Wesolowski
General Manager

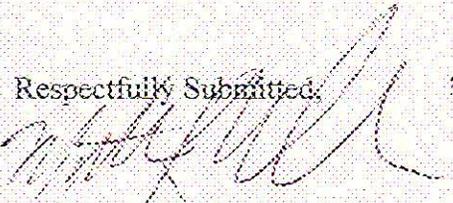
CERTIFICATION

I certify that I have directly prepared or supervised the preparation of this entire document. Although I have received no legal counsel on the authoring of this Comment on a Petition for Rule Making, I believe it to be accurate and true, to the best of my knowledge.

Date: July 20, 2004

SSR Communications, Inc.
5270 West Jones Bridge Road
Norcross, GA 30092-1628
(601) 201-2789

Respectfully Submitted,



Matthew K. Wesolowski
General Manager

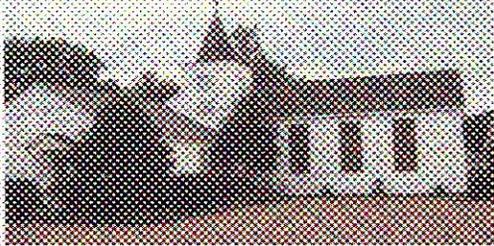
SSR Communications Incorporated
Comment on Petition for Rulemaking
July 20, 2004

EXHIBIT 1

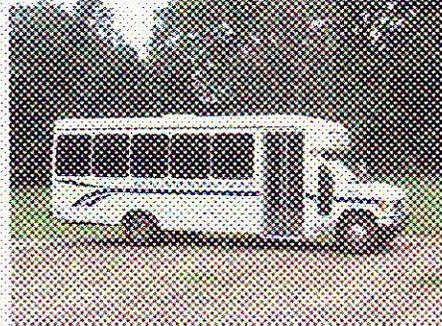
Further Evidence that Benton, Mississippi is a Bona-Fide Community

(3) BENTON IS A NEXUS FOR SPIRITUALITY

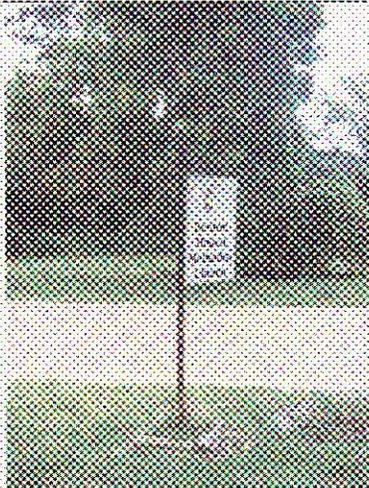
Benton is home to many local churches:



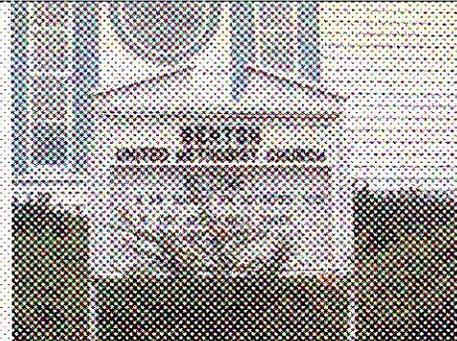
Benton United Methodist Church



Church Bus, which reads:
"Benton United Methodist Church"



Church sign, which reads:
"Benton United Methodist Church"



Another church sign, which reads:
"Benton United Methodist Church"
"WELCOME!"
9 AM SUNDAY PM ACTIVITIES 5:30
IF YOU ARE ALMOST SAVED
YOU ARE NOT SAVED AT ALL!



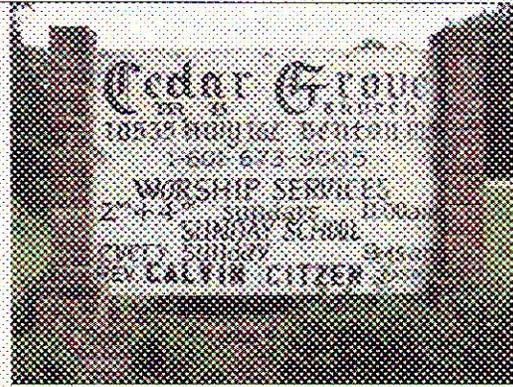
Benton Baptist Church sign, which reads:
BENTON BAPTIST CHURCH
MORNING WORSHIP 10:30
EVENING WORSHIP 6:30
PASTOR
CHARLES MOORE



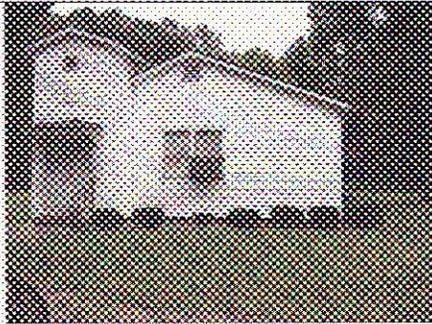
Benton Baptist Church



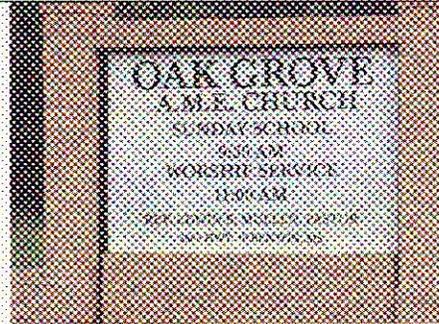
Church sign for the Wesley Chapel United Methodist Church of Benton



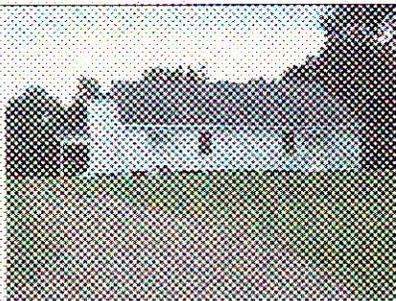
Cedar Grove M.B. Church sign, reading:
Cedar Grove M B Church
10535 hwy 16E Benton, MS
1-601-673-9005 (area code now 662)
WORSHIP SERVICES
2nd + 4th SUNDAYS 11:00 am
SUNDAY SCHOOL
Every SUNDAY 9:45 AM
REV. CALVIN CITZER PASTOR



Cedar Grove M.B. Church in Benton



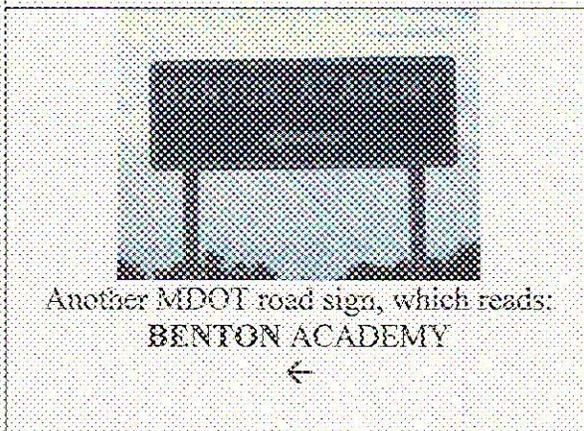
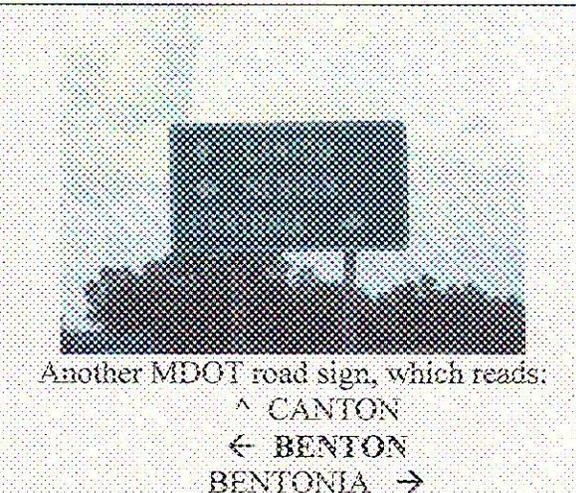
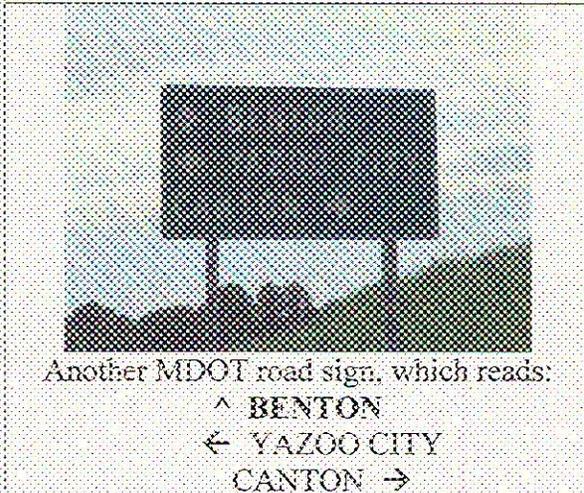
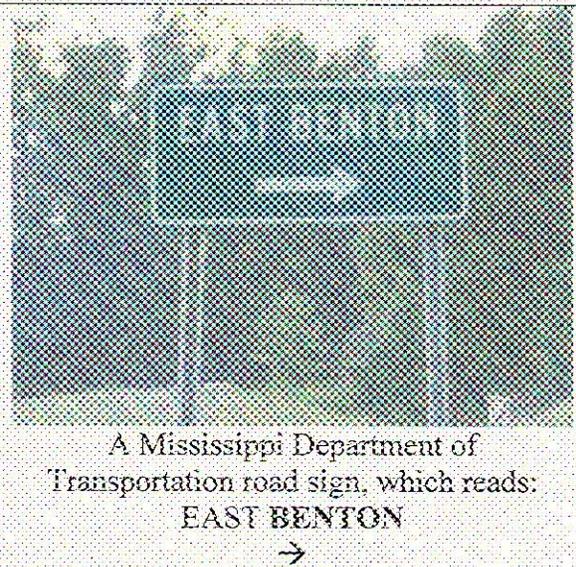
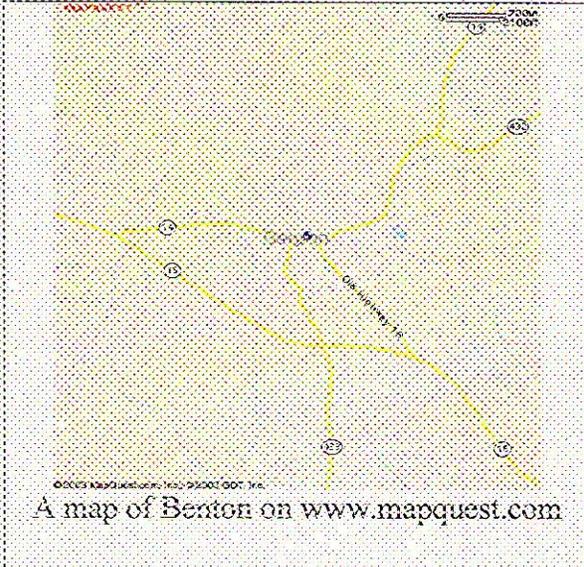
Oak Grove A.M.E. Church sign, reading:
OAK GROVE
A.M.E. CHURCH
SUNDAY SCHOOL
9:30 AM
WORSHIP SERVICE
11:00 AM
REV. EDWIN B. MULLEN, PASTOR
8866 HWY. 16 BENTON, MS



Oak Grove A.M.E. Church in Benton

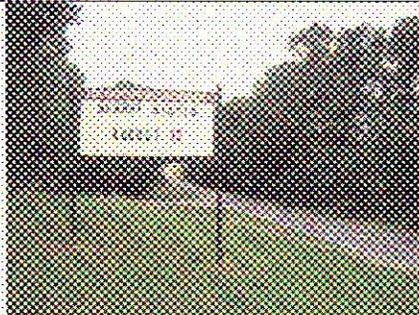
(2) BENTON IS A MAJOR NEXUS FOR TRANSPORTATION

Benton is the major transportation node for several Mississippi State Highways, including MS Highway 14, MS Highway 432, MS Highway 16, and MS Highway 433. Benton also appears on many signs leading into the community:

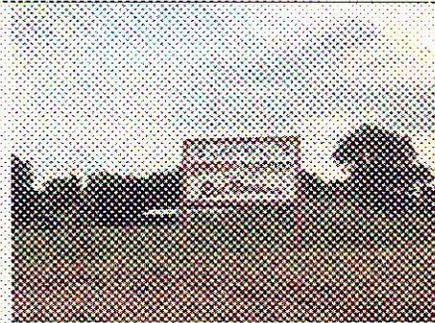


(3) BENTON IS A NEXUS FOR COMMON COMMUNITY SERVICES

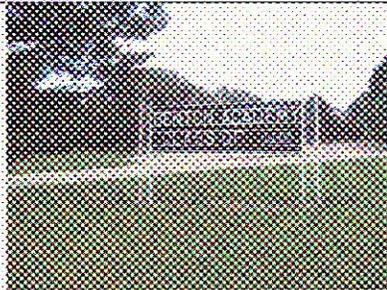
Benton is a community for allotment purposes, and as such, Benton residents provide themselves with fire protection, crime defense, and educational opportunities:



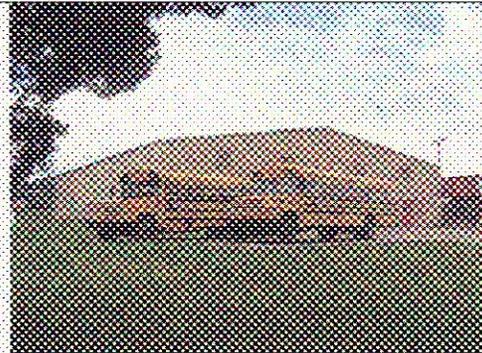
A sign for Benton Academy, reading:
**BENTON ACADEMY
SCHOOL STARTS
AUGUST 13**



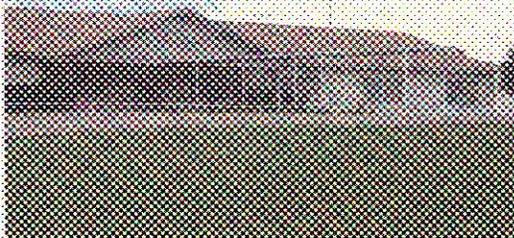
Another Benton Academy sign, reading:
**WELCOME TO
BENTON ACADEMY
HOME OF RED RAIDERS**



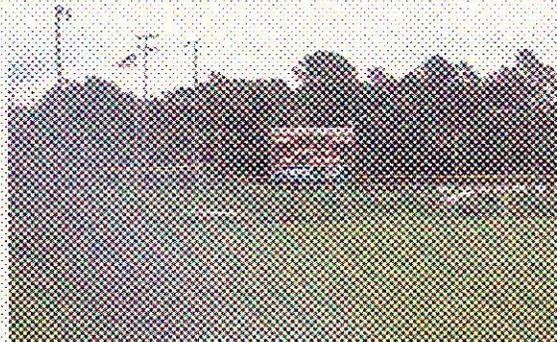
Another Benton Academy sign, reading:
**BENTON ACADEMY
CLASS OF 1972**



Several Benton Academy school busses



The main building for Benton Academy



Benton Academy football stadium, the sign reads:
BENTON ACADEMY RAIDERS



This is the old Benton High School, which was part of the Yazoo County School System until 1995, when the district consolidated all of its schools to be served by the much-newer Yazoo County High School. The Yazoo County School System still uses the school as storage.

The sign reads:
**BENTON HIGH SCHOOL
GYMNASIUM**

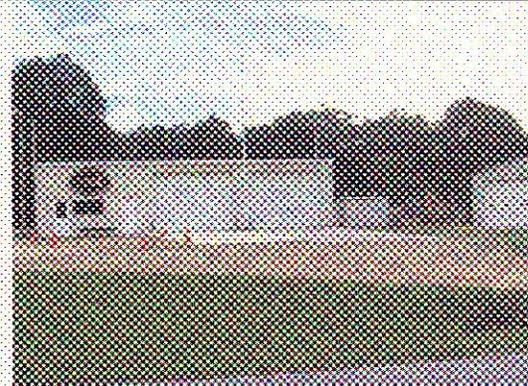


Banners still hang in the rafters of the Benton High School gymnasium, this one reads:

**RUNNER-UP
DISTRICT-DIX
BB
BOYS
1979-90
BENTON**



This sign reads:
**BENTON VOLUNTEER FIRE DEPT.
BVFD
BENTON, MISSISSIPPI**



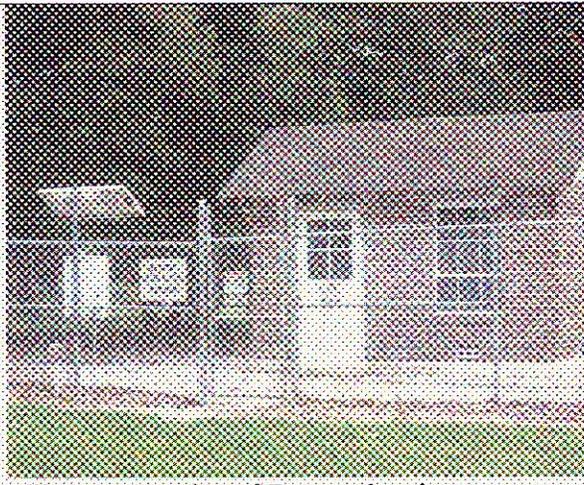
The **Benton** Volunteer Fire Department. The community provides its own fire protection



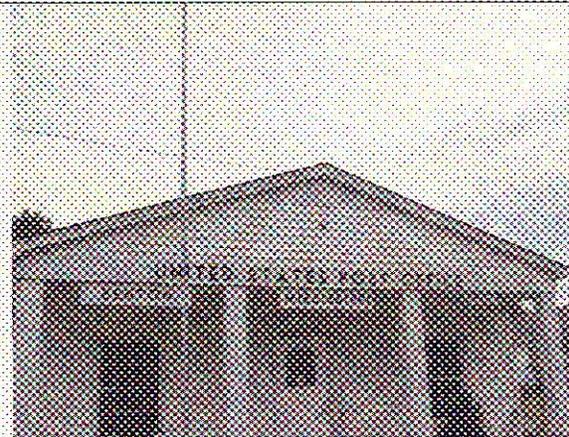
Bellsouth maintains a telecommunications Central Office in Benton, and Benton has its own telephone exchange: 673



This sign is just one example of the many neighborhoods in Benton that have their own Neighborhood Watch crime-fighting program. Residents of Benton do not have a municipal police force, but they are able to protect themselves within community programs such as the Neighborhood Watch. In effect, Benton citizens are able to protect themselves from many criminal activities.



The community of Benton has its own gas metering station. The large and relatively density of the population in Benton allowed the local gas utility company to provide this station, along with the gas pipe network for Benton.



The United States Postal Service has placed a Post Office in Benton, signifying that the Postal Service believes that Benton is a sufficiently large community to deserve its own zip code point: 39039.

The community of Benton provides its citizens with many common community services, such as gas and telecommunications utilities, postal service, education, crime protection, fire protection, et cetera. These services alone should sufficiently indicate the presence of a *bona-fide* community for allotment purposes. The lack of incorporated status has not hindered Benton from being able to provide common community services.

In the past, Benton residents have circulated petitions to incorporate, but most feel that additional taxes and the current proliferation of services make incorporation unnecessary.

(4) BENTON IS A NEXUS FOR COMMERCIAL ENTERPRISES

Benton is a community for allotment purposes. To illustrate the point, Benton is a major intersection of commercial businesses and a hub of economic activity:



Benton has its stand-alone bank branch. The Bank of Yazoo has placed an office here to serve Benton and the surrounding area, saving residents a trip to other cities. The mere presence of a bank indicates a sufficient number business transactions are occurring in Benton to support its operations.



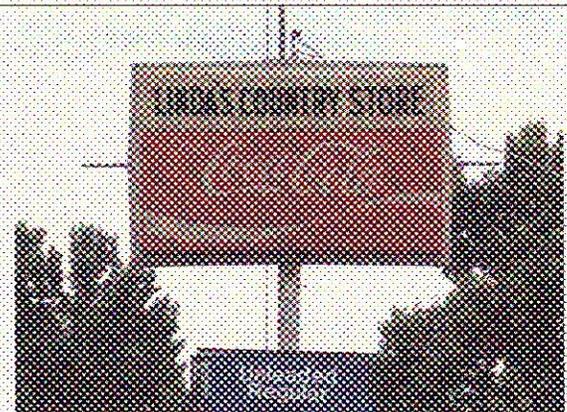
Located near downtown Benton is the sign for Mathews Farm, reading:

MATHEWS FARM
Req. Quarter Horses Reg. Paint Horses



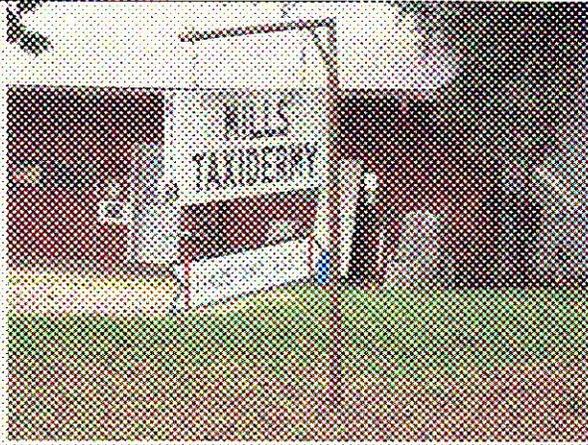
A major Benton employer is Mississippi Plastic Molders, Inc. The business identifies itself with Benton, as the sign reads:

**MISSISSIPPI
PLASTIC
MOLDERS Inc.,
BENTON, MS 673-9077**



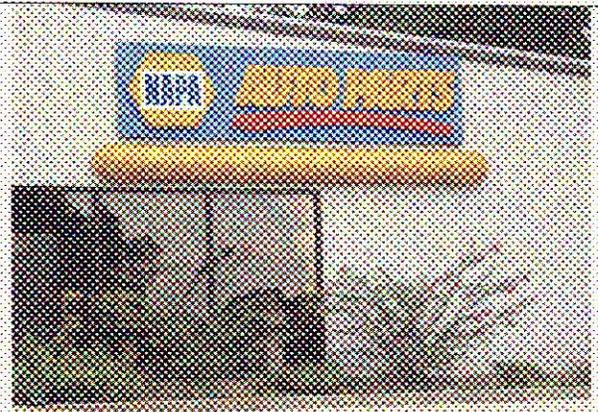
Another business in Benton: Linda's Country Store. The sign reads:

LINDA'S COUNTRY STORE
Enjoy
Coca-Cola



Another business in Benton: Mills Taxidermy.
The sign reads:

MILLS
TAXIDERM
11425 HWY. 433 S. →

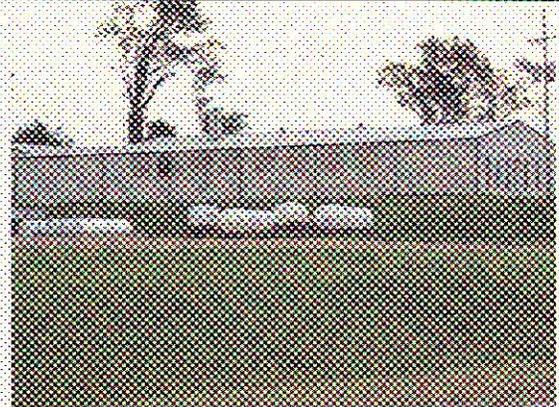


The community of Benton has its own auto parts store as well. The sign reads:

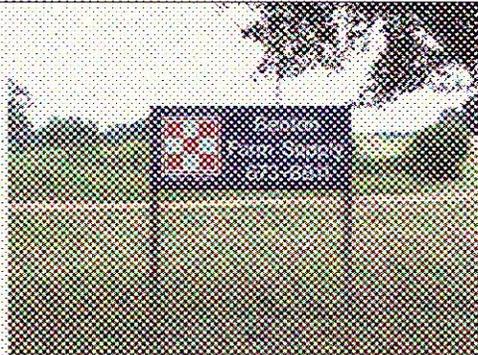
NAPA AUTO PARTS



A big Benton employer is Tri-State Delta Chemical, Inc, located on Highway 16.

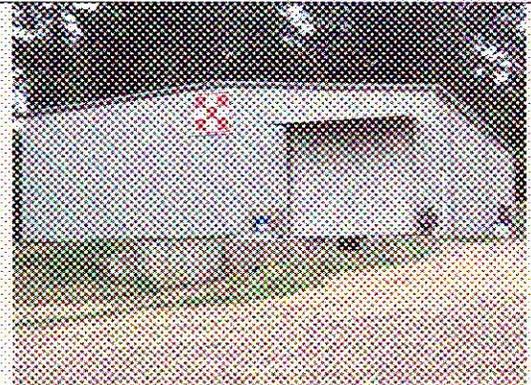


The chemical distributor's storage facilities, near the main office in Benton.

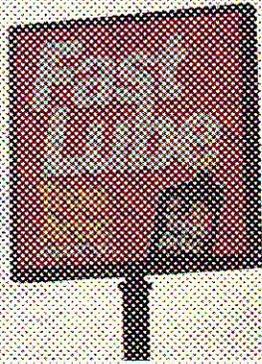


Benton Farm Supply, a business that uses "Benton" in its title. The sign reads:

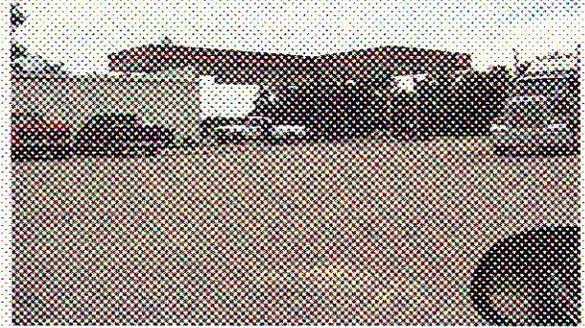
Benton
Farm Supply
673-8811



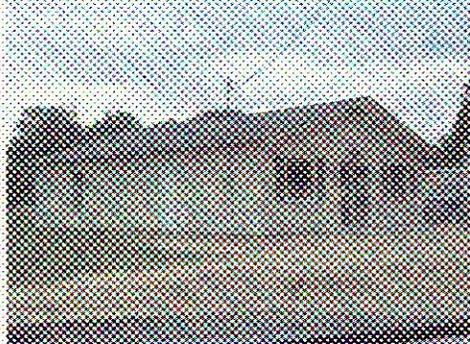
The Benton Farm Supply warehouse, apart from the company's main office.



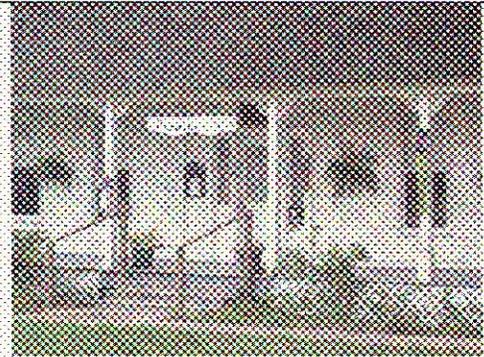
Benton has its own oil-change and general automobile maintenance center: Fast Lube.



This is a gas station in Benton, known as Benton 66, yet another business that uses the word "Benton" in its title.



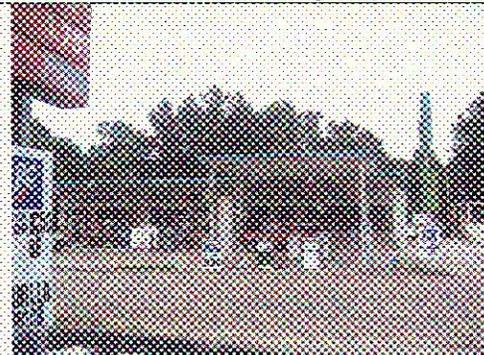
Mena's Barber and Style Shop, located in downtown Benton.



Flowers And Gifts of Benton, located in downtown Benton and another business that uses the name of community in its title.



Berry's Barbecue, the sign reads:
BERRY'S BAR B QUE
CHICKEN AND RIBS
BENTON, MS



Benton Super Saver, a convenience store and gas center in downtown Benton. It also incorporates the word "Benton" in its title.



Berry's Quick Stop, another gas station and convenience store in downtown Benton.



Benton Mini-Storage, located in downtown Benton, is yet another business that uses the word "Benton" in its title. The sign reads:

BENTON
MINI-STORAGE
673-9652



Benton Country Club, another business that uses the word "Benton" in its title. The country club is less than one mile from downtown Benton. The sign reads:

BENTON
COUNTRY CLUB
PRIVATE
MEMBERS ONLY



The Trading Post, a resale and consignment shop in downtown Benton.



Carter's Auto Repair, located just south of downtown Benton.



A service vehicle from the Mondell Jefcoat Drilling Company, located in Benton, the sign reads:

MONDELL JEFcoat
DRILLING CO.
Phone 673-2717
Benton, Miss.

The community of Benton is a major local commercial center. As seen in the previous pages, many of these businesses use the word "Benton" in their titles, a trend that the Commission usually deems important in determining community status. The presence of banking, white-collar and blue-collar industries, entertainment outlets, and many other forms of commerce establishes that Benton is a community.

The businesses shown are just a sampling of the scores of commercial enterprises that call Benton home. Benton has many more businesses, and the photographs shown do not represent a comprehensive collection of all the pictures that the Petitioner captured for this document. Rather, these photographs were the most relevant to the argument that Benton is a *bona-fide* community for allotment purposes.

(5) LETTER OF SUPPORT FROM LOCAL CIRCUIT CLERK

Benton is a community for allotment purposes: it has its own Voting Precinct and 852 registered voters. In the aforementioned Pine Level, Alabama allotment case, the Commission granted the Petitioner's request to add FM Channel 248A to Pine Level, even though there were only 428 registered voters there. Benton has close to twice as many registered voters as Pine Level. Below is a cropped copy of a statement of support from Susie Bradshaw, the Circuit Clerk of Yazoo County.

SUSIE BRADSHAW
Circuit Clerk, Yazoo County
P.O. Office 200-108
Yazoo City, Mississippi 39194

July 13, 2004

TO WHOM IT MAY CONCERN:

I, Susie Bradshaw, Circuit Clerk do hereby certify that there are 852 registered voters in the Benton Voting Precinct.

This the 13th day of July, 2004.


Susie Bradshaw, Circuit Clerk &
Voter Registrar

(G) LETTER OF SUPPORT FROM NEWSPAPER EDITOR

Benton is a community for allotment purposes, and its news is covered frequently in the local newspaper. Below is a cropped copy of a statement of support from Gary Andrews, the Editor of The Yazoo Herald:

The Yazoo Herald

July 13, 2004

Dear Matt:

In response to our recent conversation I firmly believe that Benton is indeed a community. With all of the history, the schools, the post office, the churches and all of the other services, including their own telephone service, Benton would definitely be rated a great place to live and a thriving small community.

With the current update of their highway system shows the high usage of the many people living in and around the area plus the people traveling through its main thoroughfares and the interstate.

Benton is a wonderful community to be associated with.

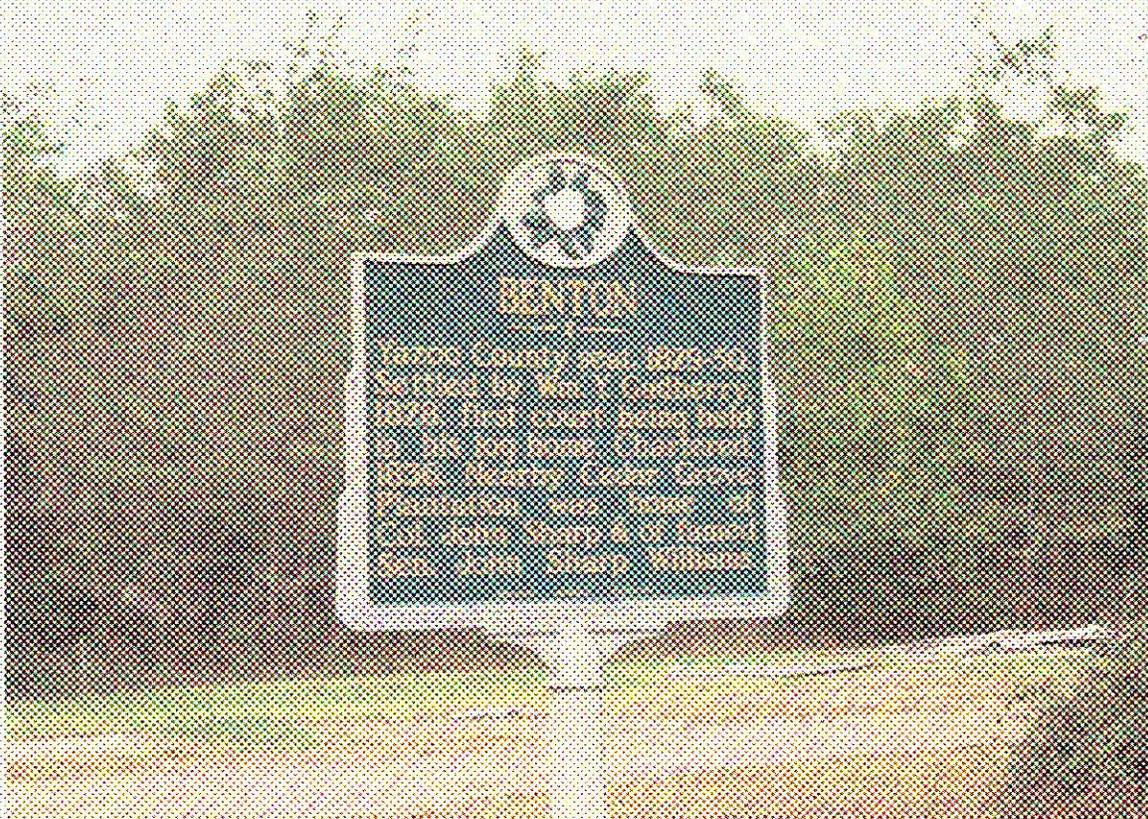
Sincerely,



Gary Andrews
Editor and Publisher

(7) BENTON FROM A HISTORICAL PERSPECTIVE

Benton is a community for allotment purposes: it had once been the County Seat of Yazoo County, before the County Seat became Yazoo City:



The sign above reads:

BENTON

- * -

Yazoo County seat, 1829-50.
Settled by Wm. Y. Gadberry,
1828, first court being held
in his log home. Chartered,
1836. Nearby Cedar Grove
Plantation was home of
Col. John Sharp & of famed
Sen. John Sharp Williams.

Mississippi Historical Commission

SSR Communications Incorporated
Comment on Petition for Rulemaking
July 20, 2004

EXHIBIT 2

Support For City Of License Change Pertaining To Allotment Priorities

loss area, receive FM service from no fewer than *sixteen* Jackson, Mississippi-area FM stations and no fewer than *twelve* Jackson-area AM stations. Most of the following stations place protected contours over the loss area:

WJSU 88.5 FM, WMPR 98.1 FM, WMPN 91.3 FM, WHJT 93.5 FM, WTYX 94.7 FM, WHLH 95.5 FM, WUSJ 96.3 FM, WFMN 93.7 FM, WJKK 98.7 FM, WJMI 99.7 FM, WYOY 101.7 FM, WMSI 102.9 FM, WQJQ 105.1 FM, WOAD 105.9 FM, WSTZ 106.7 FM, WKXI 107.5 FM, WJDX 620 AM, WIIN 780 AM, WSJC 810 AM, WSEZ 930 AM, WTWZ 1120 AM, WONG 1150 AM, WJNT 1180 AM, WPBQ 1240 AM, WOAD 1300 AM, WMGO 1370 AM, WKXI 1400 AM, WZRZ 1490 AM.

The loss area should be considered under Priority Number 4 (other public interest matters) in the determination of FM allotment changes. Benton receiving its first FM local service, being under Priority Number 3 (first local service) clearly deserves higher consideration. The loss area is small, and persons living in this area generally already are well served by approximately *thirty other broadcast services*.